

# **EXHIBIT 11**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

FUNDAMENTAL INNOVATION )  
SYSTEMS INTERNATIONAL LLC, )  
                          )  
                          Plaintiff, )  
                          ) No. 2:17-cv-00145  
VS.                      ) JRG  
                          )  
SAMSUNG ELECTRONICS CO., )  
LTD., AND SAMSUNG ELECTRONICS)  
AMERICA, INC.            )  
                          )  
                          Defendants. )  
                          )  
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VIDEOTAPED DEPOSITION OF KENNETH FERNALD, PH.D.  
Los Angeles, California  
November 21, 2017

Job No. 20151

Reported by: NIKKI ROY

CSR No. 3052

1 Q. And would you agree that the Sony U-4 cable  
2 is only compatible with Sony's camera?  
3 MS. ZHONG: Objection.  
4 THE WITNESS: I don't think I have any way  
5 of knowing that. The Kodak is also labeled "U-4." I 11:47  
6 can't tell if it's the same connector from what I  
7 have here or not.  
8 BY MR. FRIEDMAN:  
9 Q. Maybe I can help you out.  
10 A. Sure. 11:48  
11 Q. I'm on page 7 of Exhibit 1. Are you there?  
12 A. Oh, yeah, I'm there.  
13 Q. Right. There's a bullet point right in the  
14 middle of that picture that is associated with the  
15 Sony Cybershot. 11:48  
16 Do you see that?  
17 A. Yes, I think I see --  
18 Q. Correct.  
19 A. -- the text here. Sure.  
20 Q. It says there that these USB cable and jack 11:48  
21 are designed for this digital still camera only.  
22 Do you see that?  
23 A. I do. Yep.  
24 Q. Do you have any reason to dispute that  
25 statement? 11:48

1 for that camera, they should buy this cable, you  
2 know. It's not necessarily work for other Sony  
3 cameras, but that's just somewhat speculation based  
4 on taking this at face value.  
5 BY MR. FRIEDMAN: 11:50  
6 Q. Do you have any reason to --  
7 A. Also, vendors love to sell cables. You  
8 know, they always say "be sure to buy our cable  
9 because nothing else in the world will work" because  
10 they wanted you to buy it from them. 11:50  
11 Q. Did you take any steps to investigate  
12 whether the Sony cable, the U-4 cable is compatible  
13 with any camera other than the Sony camera or any  
14 other Sony cameras?  
15 A. No. I didn't find it relevant to my 11:50  
16 analysis.  
17 Q. That's all I'm trying to get at.  
18 A. Yeah.  
19 Q. Do you have any reason as you sit here today  
20 to dispute that statement that states that the USB 11:50  
21 cable, which is referring to the Sony U-4 cable, is  
22 designed for only the Sony digital still camera?  
23 A. I have no grounds to dispute that beyond  
24 what -- the statement I made before that the  
25 connectors look similar. That's all I can -- and 11:51

1 A. I don't even -- can't even be sure what that  
2 statement means, whether they simply mean among  
3 cameras made just by Sony or not, I just don't know.  
4 I have no grounds to dispute it because I don't --  
5 Q. All right. 11:49  
6 A. I'm not sure what they mean by the  
7 statement.  
8 Q. Okay. That's my question, sir.  
9 A. Yeah.  
10 Q. As you sit here today, do you have any 11:49  
11 reason to dispute that statement?  
12 A. Only that these connectors look very  
13 similar. That's all I can tell you.  
14 Q. And the statement --  
15 A. And they have a very similar nomenclature. 11:49  
16 Q. Does the statement to suggest to you as a  
17 person of ordinary skill in the art that the Sony U-4  
18 cable is only compatible with Sony's camera?  
19 MS. ZHONG: Objection --  
20 BY MR. FRIEDMAN: 11:49  
21 Q. After reading that statement on page 7 of  
22 Exhibit 1?  
23 MS. ZHONG: Objection; form.  
24 THE WITNESS: As I sit here and read this, I  
25 think it's saying that the customer who wants a cable 11:50

1 they have similar nomenclatures.  
2 Q. Is it fair to say that the Nikon UC-E1  
3 connector is incompatible with Sony's USB connector?  
4 A. At least mechanically, yes.  
5 Q. Okay. And would you agree that the UC-E1 11:51  
6 and the U-4 are nonstandard proprietary connectors?  
7 MS. ZHONG: Objection; form.  
8 THE WITNESS: No, I would not agree to that.  
9 BY MR. FRIEDMAN:  
10 Q. And why? 11:51  
11 A. For the same reasons we discussed before. I  
12 think proprietary would mean that it is not able to  
13 talk on an open standard bus, if you will. And these  
14 are talking on USB. And they're also consistent with  
15 the vendor-specific connectors that's allowed by the 11:52  
16 USB, as far as I can tell.  
17 Q. And what investigation did you undertake to  
18 determine whether the UC-E1 and the U-4 are  
19 consistent with vendor-specific connectors allowed by  
20 the -- by USB? 11:53  
21 A. I -- if I remember right, the  
22 vendor-specific connector requirement is that it  
23 allows signalling. I don't remember the exact  
24 language. We'll have to go look if you want to talk  
25 about that, you know. It's a connector that enables 11:53

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<p>1 signalling, according to USB. And beyond that, it's  2 very broad and the vendor-specific connector can be,  3 you know, a wide range of form factors. And just  4 from looking at these, I've physically held them,  5 I've looked at them, I've looked at the manuals, and 11:53  6 they clearly met the language in the USB  7 specification.</p> <p>8 Q. And to be clear on the record, is it your  9 opinion that these connectors meet all of the  10 requirements for the vendor-specific connectors of 11:54  11 USB?</p> <p>12 A. That's what I had determined. If you want  13 me to verify that, I'd have to go back and look at  14 that section of the specification.</p> <p>15 But as I sit here today, that's my opinion, 11:54  16 yes.</p> <p>17 Q. And you're confident that that is the case  18 as you sit here today?</p> <p>19 A. Yeah, I'm confident.</p> <p>20 Q. And did you perform any tests to verify 11:54  21 that?</p> <p>22 A. No. That was based on my inspection of the  23 documentation of the products themselves, not on any  24 sort of testing. I took the manual at its face value  25 that they would -- it was compatible with USB, for 11:55</p>	<p>1 specification or standard, if you will.  2 Q. And the series A connectors have a specific  3 shape, correct?  4 A. They do have a specific shape, yes. Both  5 male and female. 11:57</p> <p>6 Q. Okay. That was my next question. That  7 shape allows the A plug to mate with the A  8 receptacle, correct?  9 A. Yes, yes. That's correct.</p> <p>10 Q. And the same is true with regard to series 11:58  11 B. The series B connectors have a specific shape,  12 correct?  13 A. They do have a specific shape.  14 Q. And that shape allows the B plugs to mate  15 with the B receptacles, correct? 11:58  16 A. That is correct, yes.  17 Q. Now, if I have a device with a USB type B  18 receptacle, can you plug that device into a  19 proprietary connector?  20 A. I guess it would depend on whether the 11:58  21 proprietary connector happened to be compatible  22 mechanically with the receptacle, a B receptacle.  23 It's possible.</p> <p>24 Q. All right. So if I have a device with a USB  25 type B receptacle you would agree you can't plug it 11:58</p>
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<p>1 example.</p> <p>2 Q. These manuals state that they are  3 compatible -- these products are compatible with USB?</p> <p>4 A. That's what I remember, yes. I don't  5 remember the exact language, of course. I mean, 11:55  6 they're shown here as being USB ports, USB jacks.  7 This one calls it a USB connector in this diagram.</p> <p>8 Q. Okay. All right. If we look on page 7 and  9 8, these are all consumer-facing, correct?</p> <p>10 A. What are we talking about when you say 11:56  11 "consumer-facing"?</p> <p>12 Q. The blowouts that appear on pages 7 and 8  13 and the documents that are describing these pictures  14 that are shown on 7 and 8.</p> <p>15 A. I'm not sure what you mean by your question. 11:56  16 I'm sorry. The -- some of these are photographs that  17 were taken of the actual products. Some are excerpts  18 from manuals. I'm not sure what your question is  19 getting to.</p> <p>20 Q. All right. Okay. Now do you agree that the 11:56  21 USB 2.0 spec defines series A and B connectors?</p> <p>22 A. Yes, it defines those connectors.</p> <p>23 Q. And would you agree that series A and B  24 connectors are standard connectors?  25 A. I suppose, yeah, they're part of that 11:57</p>	<p>1 into a proprietary connector that has mechanical  2 differences from type B, correct?  3 A. If there --  4 MS. ZHONG: Objection; form.  5 THE WITNESS: If there -- if the mechanical 11:59  6 differences are significant enough.  7 BY MR. FRIEDMAN:  8 Q. Okay. Can I plug the U-4 into the type B  9 connector?  10 A. I would not guess so based on this 11:59  11 photograph. I would assume not, based on this  12 photograph.  13 Q. And if I have a device with a USB mini  14 receptacle, you couldn't plug a proprietary connector  15 with mechanical differences into it. You would agree 11:59  16 with that, right?  17 MS. ZHONG: Objection; form.  18 THE WITNESS: I -- you said mini. I assume  19 you mean Mini-B and --  20 BY MR. FRIEDMAN: 11:59  21 Q. Correct.  22 A. And -- yes. And obviously you can't -- yes  23 is the short answer.  24 Q. And as an example, we could take the Olympus  25 CB-USB1 and Sony and Kodak's U-4, Nikon's UC-E1, 12:00</p>